

BERNARD SILVER

IBLA 87-484

Decided January 30, 1989

Appeal from a decision of the New Mexico State Office, Bureau of Land Management, dismissing protest of oil and gas lease offer NM 67912 (TX).

Affirmed.

1. Oil and Gas Leases: Acquired Lands Leases--Oil and Gas Leases: Applications: Description--Oil and Gas Leases: Description of Land

A noncompetitive oil and gas lease offer for acquired lands may properly describe the requested lands by acquisition tract number assigned by the acquiring agency, in accordance with 43 CFR 3111.2-2(c), where the land has not been surveyed under the rectangular system of public land surveys. Any additional description of the land which is correct and does not create ambiguity as to the land sought will not render the offer defective.

APPEARANCES: Bernard Silver, pro se.

OPINION BY ADMINISTRATIVE JUDGE GRANT

Bernard Silver appeals from the April 9, 1987, decision of the New Mexico State Office, Bureau of Land Management (BLM), dismissing his protest of oil and gas lease offer NM 67912 (TX).

On January 2, 1987, James B. Tennant submitted oil and gas lease offer NM 67912 (TX) for unsurveyed acquired land consisting of 139 acres in the Davy Crockett National Forest, describing the lands requested as "Acquisition tract number K 26, Houston County, Texas as also shown on the attached Boundary Description." The attached document entitled "Boundary Description of the Mrs. Byrde E. Wootters Tract (K26)" contained a description of the land by courses and distances. On January 5, 1987, appellant filed oil and gas lease offer NM 67913 (TX) for "Tract No. K-26," the same land sought by Tennant.

On March 6, 1987, appellant filed a protest, requesting that BLM reject Tennant's offer because the land description in the offer was defective. Appellant argued that, although Tennant properly described the land by tract number pursuant to 43 CFR 3111.2-2(c), Tennant's addition of the words "as also shown on the attached Boundary Description" converted the description from the tract number alone to the boundary description found in the

attached document. Appellant contended that the boundary description was deficient under 43 CFR 3111.2-2(b), which provides that unsurveyed lands "shall be described as in the deed or other document by which the United States acquired title to the lands or minerals," because the document containing the boundary description was not the deed or other document by which the United States obtained title.

By decision dated April 9, 1987, BLM dismissed appellant's protest. BLM noted that Tennant correctly described the land by tract number and that the additional description he provided was not wrong. BLM found that Tennant had complied with 43 CFR 3111.2-2(c) which provides that "[i]n those instances where the acquiring agency has assigned an acquisition number to the tract applied for, a description by such tract number shall be required in addition to the description otherwise required by paragraph (a) [for surveyed lands] and in lieu of the description otherwise required by paragraph (b) [for unsurveyed lands] of this section." BLM further stated that the additional description by courses and distances which Tennant furnished was surplusage and did not affect the description by tract number.

In his statement of reasons, appellant reiterates the arguments he raised in his protest. Appellant states that he disagrees with BLM's determination that the additional description is surplusage and does not affect the description by tract number. Appellant contends that "by adding the words '\* \* \* as also shown on the attached Boundary Description' after the words, 'Houston County, Texas,' Mr. Tennant in effect altered the description from the tract number alone, and shifted the land requested to the description of the boundaries of the tract included in his attachment." Since the Forest Service boundary description attached to Tennant's offer is not the "deed or other document by which the United States acquired title to the lands or minerals" required by 43 CFR 3111.2-2(b), appellant argues that Tennant violated that regulation and that his offer should be rejected.

[1] The purpose of the Departmental regulations concerning descriptions in lease offers is to require an offeror to give a description of the requested lands which is at least sufficient on its face to delimit the lands in the offer. See Bruce Anderson, 85 IBLA 270 (1985); James M. Chudnow, 70 IBLA 71 (1983); Milan S. Papulak, 63 IBLA 16 (1982); Charles J. Babington, 71 I.D. 110 (1964). The lands at issue here are located in Texas where the rectangular system of public land surveys does not apply. See United States Department of the Interior, Bureau of Land Management, Manual of Surveying Instructions, 1-23 (1973 ed.); Bruce Anderson, *supra* at 271. The regulations provide alternative methods for describing acquired lands not surveyed under the public land survey system: the lands may be described as in the deed or other document by which the United States acquired title or, where the acquiring agency has assigned a tract number to the land sought, it may be described by such tract identification number. 43 CFR 3111.2-2(b), (c).

As appellant admits, Tennant correctly described the land sought by acquisition tract number, thus fulfilling the requirements of 43 CFR 3111.2-2(c). Because he met those requirements, he did not need to comply with the requirements of 43 CFR 3111.2-2(b). See Leon F. Scully, Jr.,

79 IBLA 117 (1984). Nevertheless, Tennant further elaborated on the description of the land by incorporating the boundary description attached to his offer. This additional description was also correct and created no ambiguity on the face of his offer as to which lands he requested. BLM properly determined that the additional description was surplusage and did not affect the description by tract number. See David H. Yates, 33 IBLA 175, 177 (1977).

We find that Tennant's description of the land by tract number fully complies with the applicable regulations. Appellant's argument that the addition of the boundary description shifted the description from one by tract number alone to one by boundary description finds support in neither the language of the regulation, nor in its purpose to ensure that a lease offer on its face provides an adequate description to delimit the land sought.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

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C. Randall Grant, Jr.  
Administrative Judge

I concur:

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Wm. Philip Horton  
Chief Administrative Judge